

Amend existing Title 22 California Code of Regulations section 4448:

4448. Audits.

- (a) ~~The panel~~ To ensure the provision of adequate fiscal and accounting controls, ETP shall, on an annual basis, conduct performance-based ~~provide for audits of a representative selected sample of the training contracts. projects funded by ETP in a given fiscal year. The auditor shall select the sample at his or her sole discretion and the criteria for selection may vary from one fiscal year to another.~~

- (1) These audits shall be designed to provide reasonable assurance determine whether that the performance objectives of the training contract have been met. The auditor will test records, documents and other evidence that would support the final training cost reimbursement under the contract. At a minimum, the auditor will test for compliance with the following performance objectives: certification of eligibility for training, enrollment in training, completed class or lab presentation, training, training attendance, job placement in a job, and retention in that job at the minimum wage specified wage and payments were made in accordance with in the contract.

- (2) These audits shall be performed in accordance with the generally accepted Government Auditing Standards (GAGAS) promulgated by the General Accounting Office under the Comptroller General of the United States. [Note: The GAGAS standards may be viewed free-of-charge at www.gao.gov.]

In accordance with GAGAS, there are no fixed rules or specific procedures that must be followed. The auditor must be allowed to exercise his or her professional judgment in determining the standards to apply when conducting the audit.

- (3) In accordance with GAGAS, a peer review of ETP audits should be conducted every three years by an independent third party, such as the Bureau of State Audits.

- (b) ~~The panel shall provide for audits of training contract budgets, both for reasonable training and administrative costs. The auditor may use statistical sampling in his or her selection of the items being audited to extrapolate a probable error rate in a performance-based audit. In particular, statistical sampling and extrapolation will be used when there is good cause to believe that a significant overpayment has occurred, in the professional judgment of the auditor.~~

The auditor may also use non-statistical sampling in a given audit. However, the results of non-statistical sampling will not be extrapolated since the sample results would not necessarily be representative of the audit population.

The auditor will determine the statistical sampling methodology, and the statistically valid sample size, based on his or her professional judgment. The methodology may vary between fiscal years and audits.

- (c) The panel may provide for pre-award audits of training contracts to determine whether the contractor can perform the planned training. When a probable overpayment is determined by statistical sampling and extrapolation, the final audit report shall include the following:
- (1) The statistical sampling methodology;
 - (2) The sample size;
 - (3) The population from which the sample was drawn;
 - (4) The calculations used to extrapolate the overpayment; and,
 - (5) The confidence level used to set the precision of the extrapolation.
- (d) When a probable overpayment is determined by statistical sampling and extrapolation, the contractor shall be provided an opportunity to refute the audit findings. Any decision to modify the probable overpayment or not shall be made at the sole discretion of ETP, based on the professional judgment of the auditor.
- (e) ETP may conduct desk audits of selected training projects for a given fiscal year. Its criteria for selection may vary from one fiscal year to another.

These audits are not required to be performed in accordance with GAGAS due to the limited scope of the audit work.

Authority: Section 10205(k)(m), Unemployment Insurance Code

Reference: Section 10205(g), 10212(e), Unemployment Insurance Code